



JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
DEPARTMENT OF CONSERVATION
LAND USE REGULATION COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0022

PATRICK MCGOWAN
COMMISSIONER

December 4, 2006

Maine Bureau of Parks and Lands
Attn: David Rodrigues, Acting Deputy Director
22 State House Station
Augusta, Maine 04333-0022

Subject: ADVISORY RULING AR 06-37, Wyman Township, Franklin County

Dear Dave,

Thank you for the information provided in the Bureau of Parks and Lands' (hereinafter BPL) request for an Advisory Ruling. You have asked our opinion on some complex issues with respect to land divisions and lots. We will attempt to provide our view on the matters as we understand them, pursuant to 5 M.R.S.A. 9001. I want to caution however, this is an informal response and not a legal determination. You may want to consult your attorney on these matters. Of course, in providing our views on these matters, we have relied entirely upon the facts as you have presented them to us.

According to your request, the State of Maine currently owns land in 5 separate parcels south of State Route 27/16 in Wyman Township. The 5 parcels were created from one larger parcel in 1988, when J.M. Huber Corporation sold a corridor of land from within its ownership to Stratton Energy Corporation for the purpose of installing an electric power transmission line. This sale did not create a subdivision requiring Commission permit approval because 4 of the 5 lots retained by J.M. Huber Corporation were all greater than 40 acres in size and the company filed a survey plat plan of the land division in the Franklin County Registry of Deeds. The State of Maine acquired the 5 lots from J.M. Huber Corporation in March of 1999, and the only change to this ownership since that time has been the transfer of a 0.36 acre parcel from one of the lots to an abutting landowner.

For purposes of this Advisory, BPL has described the 5 lots as:

Parcel A: Approximately 201 acres
Parcel B: Approximately 683 acres
Parcel C: Approximately 67 acres
Parcel D: Approximately 73 acres
Parcel E: Approximately 35 acres

These parcels are diagramed in a plan submitted with the Advisory Ruling Request entitled "Current Ownership".

In February of 2004, BPL entered into an "Option to Lease Agreement" with Redington Mountain Windpower, LLC, granting an option to lease portions of the above described parcels B, D and E to Redington Mountain Windpower, LLC for the purpose of installing and maintaining electric power and communication transmission lines associated with Redington Mountain's proposed wind farm project. Redington Mountain Windpower LLC has to date not exercised this Option to Lease Agreement.

CATHERINE M. CARROLL, DIRECTOR

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BPL is now considering two future conveyances of land and/or interest in these lots, one being fee interest in a portion of the land, and the other being the conveyance of a lease to portions of several of the parcels identified above, and wants to know if such conveyances may occur without creating a subdivision requiring prior Commission permit approval.

In the first conveyance, BPL proposes to sell the western portion of the property, including all of Parcels A and B, and a portion of Parcel C, to Gardner Land Company, Inc, as depicted on a plan submitted with the Advisory Ruling Request entitled "Conveyance Number One". This conveyance would result in the division of Parcel C into two lots, one 58 acres and the other 9 acres.

In the second conveyance, BPL proposes to lease a utility line corridor across Parcels D and E to Redington Mountain Windpower, LLC as depicted on a plan submitted with the Advisory Ruling Request entitled "Conveyance Number Two". This conveyance would divide Parcel E into two parcels; a 30 acre lot to be retained by BPL (shown as Lot E-1 on the plan) and a 5 acre leased lot (shown as Lot E-2 on the plan), and would divide Parcel D into three parcels, a 72 acre lot to be retained by BPL (shown as Lot D-1 on the plan), a 0.12 acre lot also to be retained by BPL (shown as Lot D-3 on the plan) and a 0.76 acre lease lot (shown as Lot D-2 on the plan). BPL would retain Lots D-1 and D-3 for conservation and forest management purposes for at least 5 years from the date of leasing Lot D-2.

In addition, BPL anticipates that Gardner Land Company, Inc., would also grant a lease to Redington Mountain Windpower, LLC for a utility line corridor for the above described proposed power and communications transmission line, which would divide Parcel B into three lots; a 659 acre parcel that Gardiner Land Company would retain (shown as Lot B-1 on the plan), a 14 acre parcel that Gardiner Land Company would retain (shown as Lot B-2 on the plan), and a 7 acre lease lot (shown as Lot B-3 on the plan). It is BPL's understanding that Gardner Land Company, Inc. would retain ownership of either Lot B-1 or B-2 and use it solely for forest management purposes (pursuant to Section 10.25, Q, 1, g, (2) of the Commission's Land Use Districts and Standards) for at least 5 years from the date of leasing Lot B-3.

Based upon the information you have provided, it appears that a Land Use Regulation Commission permit will not be required for the proposed conveyances, if conducted as proposed and provided the lots proposed to be retained by BPL and Gardner Land Company Inc. are retained and not sold, platted, leased, conveyed or further divided, and that they are used solely for forest or agricultural management activities, or natural resource conservation purposes for a period of at least 5 years.

The first conveyance of fee interest in Parcels A and B in their entirety and portions of Parcel C effectively creates only two lots from Parcel C, which does not constitute a subdivision under the Commission's rules. Please be advised that further division of either lot from the land previously constituting Parcel C within 5 years of the conveyance of Parcel C-1 to Gardner Land Company, Inc. could constitute a subdivision requiring prior review and permit approval from the Commission or may be prohibited.

The second conveyance of a lease to a utility line corridor through Parcels D and E effectively creates 3 lots from Parcel D and 2 lots from Parcel E. However, because BPL would retain Lots D-1 and D-3 and utilize them solely for conservation and forest management activities for at least 5 years from the date of leasing Lot D-2, Lots D-1 and D-3 constitute retained lots that are exempt from counting as lots for purposes of subdivision, and Parcel E is divided into only two lots, which does not constitute a subdivision requiring prior review and permit approval from the Commission. Please be advised that Lots D-1 and D-3 must be retained and not sold, platted, leased, conveyed or further divided, and that they are used solely for forest or agricultural

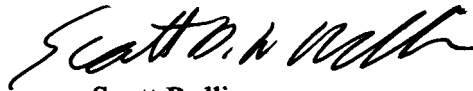
management activities, or natural resource conservation purposes for at least 5 years. This restriction effectively prohibits development of the property of any type not directly associated with forest or agricultural management of the property.

The anticipated conveyance by Gardner Land Company, Inc. of a lease to a utility line corridor through Parcel B would effectively create 3 lots from Parcel B. However, because Gardner Land Company, Inc. would retain Lot B-1 or B-2, and utilize it solely for forest management activities, for at least 5 years from the date of leasing Lot B-3, Lot B-1 or B-2 would constitute a retained lot that is exempt from counting as a lot for purposes of subdivision, and therefore, Parcel B would be divided into only two lots that count toward subdivision, which does not constitute a subdivision requiring prior review and permit approval from the Commission. Please be advised that Lot B-1 or B-3 must be retained by Gardner Land Company, Inc. and not sold, platted, leased, conveyed or further divided for at least 5 years, and that the lot must be used solely for forest or agricultural management activities, or natural resource conservation purposes for at least 5 years. This restriction effectively prohibits development of the property of any type not directly associated with forest or agricultural management of the property.

Please be aware that land division activities other than those which you have described within your request may require prior Commission review and/or rezoning, or may be prohibited under provisions of the Commission's Land Use Districts and Standards. Thus it may be advisable to include deed restrictions on the use and further division of the properties as part of any conveyance. Please contact the Commission if you plan any changes.

Should you have any further questions, please contact me at (207) 287-2631

Sincerely,



Scott Rollins
Division Manager
Permitting and Compliance Division

xc: Geo File